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ENZO BIOCHEM, INC.
527 Madison Avenue (9th Floor)
New York, NY 10022

MAILED

APR 12 2011

In re Application of :
ILAN *et al* :
Application No.: 10/676,045 :
Filing Date: September 30, 2003 :
Attorney Docket No.: Enz-63(CIP) :
For: EDUCATED NKT CELLS AND THEIR :
USES IN THE TREATMENT OF :
IMMUNE-RELATED DISORDERS :

PCT LEGAL ADMINISTRATION

DECISION

This is a decision on the "Petition to Accept Unintentionally Delayed Priority Claim Under 35 U.S.C. 120" filed October 27, 2010, which is treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§ 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application was submitted in an amendment filed with the subject petition in accordance with 37 CFR 1.121 to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) was charged to Deposit Account No. 05-1135 as authorized; and (3) applicants' statement in the subject petition is construed as meaning that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional."

If this is incorrect, applicants **MUST IMMEDIATELY** notify the Office of PCT Legal

Administration. As so construed, then item (3) is satisfied.

Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR § 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR § 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application accompanies this decision on petition.

Any questions concerning this decision may be directed to James Thomson at (571) 272-3302.

This matter is being referred to Technology Center Art Unit 1644 for appropriate action on the amendment filed October 27, 2010, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.



Boris Milef
Legal Examiner
PCT Legal Administration